

### **REMARKS**

The Office Action dated July 28, 2004, has been received and carefully noted. The following remarks are submitted as a full and complete response thereto.

Claims 1-3 are pending in the present application and are respectfully submitted for consideration.

#### **Claims 1-3 Recite Patentable Subject Matter**

Claims 1-3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hamabe et al. (U.S. Patent No. 5,319,795, "Hamabe") in view of Noriaki (JP 02-276323). Applicant respectfully traverses the rejection and submits that each of these claims recites subject matter that is neither disclosed nor suggested by the cited prior art.

Claim 1 recites a radio base station for performing a radio communication with a plurality of mobile stations with a space division multiplex method, the radio base station being characterized by transmitting an instruction to stop performing a diversity reception to a mobile station which the radio base station is to communicate with by the space division multiplex method.

It is respectfully submitted that the prior art fails to disclose or suggest at least the step of "transmitting an instruction to stop performing a diversity reception to a mobile station which the radio base station is to communicate with by the space division multiplex method."

The Office Action characterized Hamabe as allegedly disclosing "a radio base station (fig. 1) for performing a radio communication with a plurality of mobile stations

(fig. 2),” and admits that “Hamabe does not teach the radio base station communicating with a space division multiplex method.”

The Office Action also characterized Noriaki as allegedly disclosing a radio base station “transmitting an instruction to stop performing a diversity reception to a mobile station which the radio base station is to communicate with by the space division multiplex method (see line 4 of ABSTRACT).”

Applicant submits that neither Hamabe nor Noriaki disclose or suggest each and every element cited in claim 1 of the present application. In particular, it is submitted that the “space diversity reception system” of Noriaki is neither comparable nor analogous to the “space division multiplex method” of the present invention. In fact, Noriaki merely discloses “a space diversity reception system” in which electric waves are received via two or more antennas that are physically apart from each other, and where an electric wave having the highest intensity among the received electric waves is used.

In contrast, the space division multiplex method of the present invention is a multiplex connection method for radio communication in which an adaptive-array radio base station communicates with a plurality of mobile stations simultaneously by forming a different directional pattern for each mobile station on each carrier of the same frequency simultaneously. Hence, one of ordinary skill in the art would clearly determine that the “space diversity reception system” of Noriaki is distinguishable from the “space division multiplex method” of the present invention because they are neither the same nor alike. Therefore, Applicant submits that Hamabe and Noriaki, taken alone

or in combination, fail to disclose each and every element recited in claim 1 of the present application.

Moreover, in order to establish a *prima facie* case of obviousness, each feature of a rejected claim must be taught or suggested by the applied art of record. See M.P.E.P. §2143.03 and *In re Royka*, 490 F.2d 981 (CCPA 1974). As explained above, Hamabe and Noriaki, alone or in combination, do not teach or suggest each feature recited in claim 1. Accordingly, for the above provided reasons, it is submitted that pending claim 1 is not rendered obvious under 35 U.S.C. § 103 by Hamabe and Noriaki. Therefore, Applicant respectfully submits that claim 1 is allowable.

Furthermore, Applicant respectfully notes that claims 2 and 3 depend from claim 1. Therefore, it is respectfully submitted that claims 2 and 3 are also allowable for at least the same reasons claim 1 is allowable, as well as for the additional subject matter recited therein.

Accordingly, Applicants respectfully request withdrawal of the rejection.

### **Conclusion**

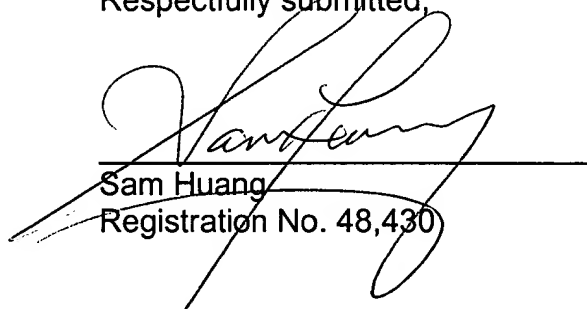
In view of the above, Applicant respectfully submits that each of claims 1-3 recites subject matter that is neither disclosed nor suggested in the cited prior art. Applicants also submit that the subject matter is more than sufficient to render the claims non-obvious to a person of ordinary skill in the art, and therefore respectfully request that claims 1-3 be found allowable and that this application be passed to issue.

If for any reason, the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact the

Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper has not been timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300 referencing Attorney Docket No. 101201-00013.

Respectfully submitted,



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